



PLANNING COMMISSION SYNOPSIS

Wednesday, May 2, 2007

5:00 p.m. STUDY SESSION
Review Capital Improvement Program
Room # T-332

6:30 p.m. General Plan & Regular Meeting

Council Chambers
City Hall Wing

200 East Santa Clara Street
San Jose, California

Xavier Campos, Chair
James Zito, Vice-Chair

Christopher Platten	Ash Kalra
Vacant	
Matt Kamkar	Lisa Jensen

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, May 2, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

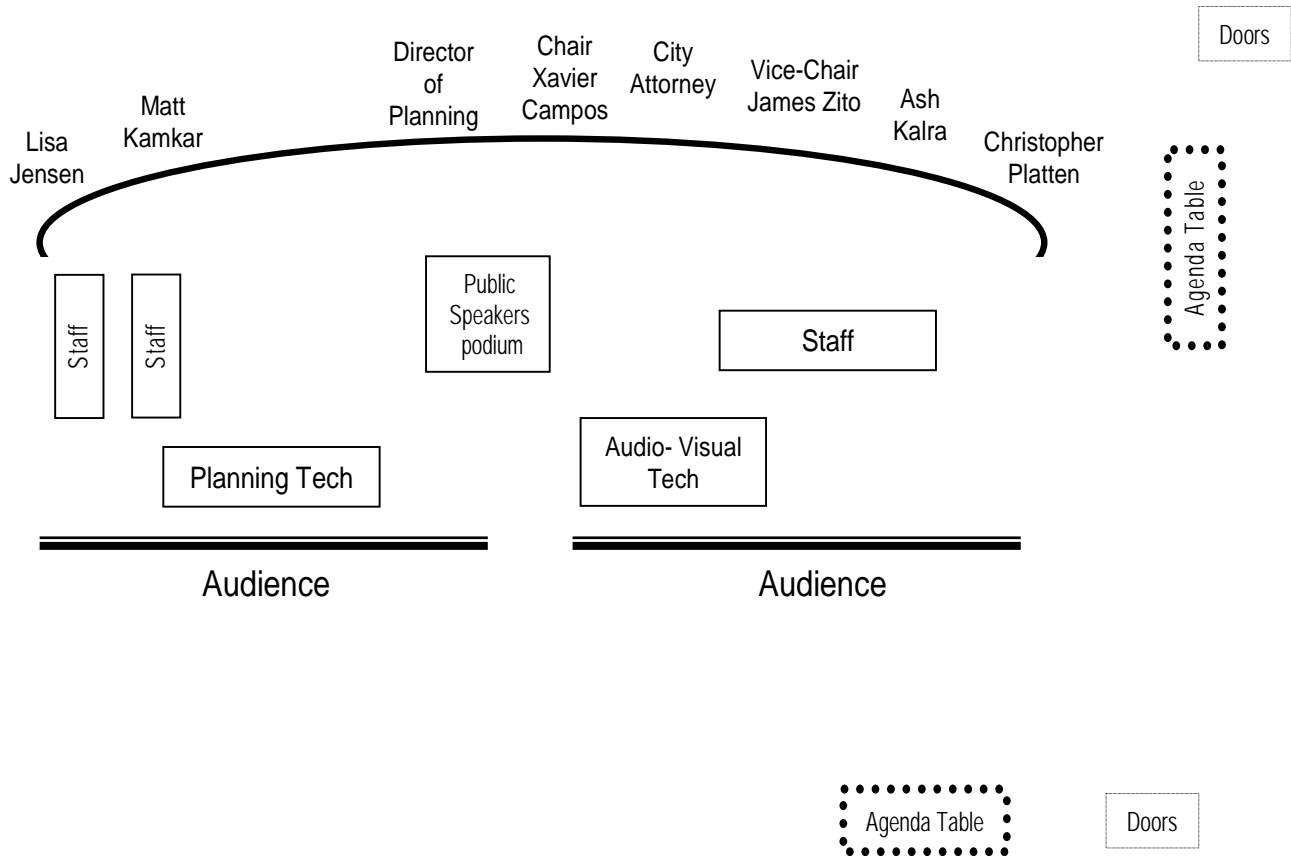
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Olga Guzman at olga.guzman@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website:

http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

All present.

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date.

TO BE HEARD BY THE PLANNING COMMISSION NO LATER THAN 11:00 P.M.

- b. **CP07-004.** Conditional Use Permit to allow an indoor recreation use in an existing industrial park building in the HI-Heavy Industrial Zoning District located at the south end of Crane Court, near the northwesterly corner of Zanker Road and US 101 (Limar Realty Corp. # 18). Council District 4. SNI: N/A. CEQA: Pending.

DEFERRED TO 5-16-07 (6-0-0)

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **CPA00-005-01.** Conditional Use Permit Amendment for the renewal of a Conditional Use Permit for an existing public eating, drinking, and entertainment establishment with late night use until 2:00 a.m. daily in the DC Zoning District, located at the northwest corner of W. San Salvador Street and S. First Street (389 S. 1st Street) (Jacek and Ann Rosicki, Owner). Council District 3. SNI: None. CEQA: Exempt.

APPROVED (6-0-0)

4. **CONTINUE THE PLANNING COMMISSION MAY 2007 HEARING ON GENERAL PLAN AMENDMENTS**

5. **GENERAL PLAN CONSENT CALENDAR**

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

No items.

6. **GENERAL PLAN PUBLIC HEARING CALENDAR**

- a. **GP06-T-04**. GENERAL PLAN TEXT AMENDMENT request to amend the *San Jose 2020 General Plan* text to increase the maximum allowable building height from 50 feet to 65 feet at Valley Fair Shopping Mall (Valley Fair Mall, LLC, Applicant/Westfield Corporation, Owner) located on an approximately 53-acre site bounded by Forest Avenue to the north, Stevens Creek Boulevard to the south, Winchester Boulevard and City of Santa Clara to the east, and Interstate 880 to the west. Council District: 6. SNI: None. CEQA: EIR Resolution to be adopted. Deferred from 4-25-07.

RECOMMENDED APPROVAL (6-0-0)

Staff commented on additional correspondence received by email dated May 2, 2007, from Kirk Vartan, a resident of District 6. Mr. Vartan expressed concern about the validity of the traffic study that was completed as part of the Environmental Impact Report (EIR) for the proposed text amendment and pending site development permit. In particular, Mr. Vartan, commented on congestion issues with the I-880/I-280/State Route 17 interchange, the project's relationship to the Bay Area Research Extension Center (BAREC) property west of the Valley Fair site, and cumulative impacts to the area as a whole. He also expressed interest in the possibility of a pedestrian overpass connecting Valley Fair and Santana Row. Staff responded that the traffic analysis was covered in the EIR, which was certified by the Planning Commission on April 25, and that no appeal was filed, so the issue as it relates to the validity of the traffic study is closed. Comments about not allowing new development to occur until the I-880/I-280/State Route 17 interchange is improved can be considered for discussion at the Site Development Permit hearing. Staff also commented the Stevens Creek pedestrian overpass was discussed at the EIR certification hearing, and though it is not a relevant issue for this General Plan text amendment hearing, it can be raised again at the future Site Development Permit hearing, and that cumulative impacts to the site area are accounted for in traffic studies and project analysis, and are addressed in the EIR. Staff stated comments about the BAREC property are not relevant to the General Plan text amendment discussion, but can be directed to the City Council to consider if San Jose will take any action related to the BAREC property.

Scott Vallee, the applicant, commented that the additional height is essential for design of retail store interior heights and modern parking garages to accommodate the number of expected vehicles that the new square footage would attract. Mr. Vallee also commented on landscaping, planting and public access improvements that would be implemented as part of the Site Development Permit to reduce the perception of massing for pedestrians on Stevens Creek Boulevard.

Commissioner Zito, acknowledging that site design and improvements were not relevant to the General Plan text amendment hearing, expressed his interest in the pedestrian bridge concept as a reasonable request from the community which would result in increased economic vitality for both sites. He requested that it be considered during subsequent application review processes. Staff responded that the additions and improvements currently going forward through the pending Site Development Permit application do not include a pedestrian overpass, but that many more studies would occur over time as Valley Fair and Santana Row continue to mature and street sections change, allowing for future consideration of the pedestrian bridge concept.

- b. **GP06-T-01**. GENERAL PLAN TEXT AMENDMENT request to amend the *San Jose 2020 General Plan* text to increase the maximum allowable building height from 150 feet to 220 feet above ground level on an approximately 6.08-acre site located at the southeasterly corner of Airport Parkway and Old Bayshore Highway and amend the text of the Rincon South Specific Plan as it relates to the North San Jose Area Development Policy (Foster Enterprises, Owner/Applicant). Council District: 3. SNI: None. CEQA: Environmental Impact Report Resolution No. 72768, and Addenda hereto, File No. GP06-T-01. Deferred from 4-25-07.

**RECOMMENDED DEFERRAL UNTIL NEXT GENERAL PLAN
HEARING CYCLE (6-0-0). THE PLANNING COMMISSION'S
RECOMMENDATION IS DEEMED A NEGATIVE
RECOMMENDATION PURSUANT TO SAN JOSE MUNICIPAL CODE
SECTION 18.08.100.**

The Planning Commission discussion primarily focused on the timing of future General Plan hearings and when the subject General Plan text amendment could be heard if deferred. Staff explained that the next General Plan hearing is potentially in the Fall, although no specific dates have been established, but that staff would expect that the City Council would have considered the Airport Obstruction Study and policies relating to building heights near the Airport by the next General Plan hearing.

Mark Foster, representing the owner and applicant, stated that the site is not within the study area of the Airport Obstruction Study. He stated that the subject site has sufficient distance to the airport runways and approach zones such that buildings on the site would not be affected in the event of an emergency. Mr. Foster stated that the Federal Aviation Administration (FAA) issued a No Hazard Determination for the subject proposal, and he cited staff's analysis supporting a Council decision to overrule the Airport Land Use Commission (ALUC) determination as reasons why the proposal should be approved. He also stated his concerns about the costs incurred during the development review process and stated that a deferral would translate to an approximately six-month delay. Mr. Foster expressed dissatisfaction with the Commission's decision to defer the item.

Chair Campos responded that there was consensus among the Commissioners that they were not comfortable making a decision on the proposal without vital information that is pending.

Chair Campos asked for an explanation of the staff recommendation given that the site is located outside of the Airport Obstruction Study area. Staff stated that because the Airport Obstruction Study might result in height reductions in the Downtown and potentially affect building height policies at other areas in proximity to the Airport, the City Council should have an opportunity to consider and understand the context of allowable heights throughout the City before considering increasing building heights at a particular location.

Commissioner Jensen inquired about the 305 foot height limit on the nearby Holiday Inn site. Staff explained that the 305-foot height limit is in the General Plan as a result of a prior approved General Plan amendment, but no specific development proposal has been approved for that height and that future high-rise development proposals would require FAA clearance.

- c. **GP07-T-01**. GENERAL PLAN TEXT AMENDMENT request to amend the *San Jose 2020 General Plan* text to re-establish an Annual General Plan review of Major Issues. Council District: Citywide. SNI: All. CEQA: Environmental Impact Report Resolution No. 65459.

RECOMMENDED APPROVAL (6-0-0)

Planning staff summarized the comments from developers' representatives received during the Developers Roundtable meeting on April 27, 2007, and staff presented to the Commission suggested revisions to the draft text amendment which addressed the developers' request for the Council to hold at least two hearings per year on General Plan amendments. No one from the public spoke on the item.

Commissioner Zito asked staff to clarify "major" and "minor" issues. Planning staff stated that, as proposed, major issues include 1) industrial conversions to non-employment uses, 2) minor modifications to the Greenline/Urban Growth Boundary and 3) expansions to the Urban Service Area, and that other issues raised by proposed amendments that clearly conflict with most City policies could also be considered major issues. Commissioner Zito asked if any proposed General Plan amendment requiring an Environmental Impact Report (EIR) would be considered a major issue. Staff responded that some developers' representatives have stated that they do not want General Plan amendments requiring EIRs to be categorized as major issues because this requirement would be too broad. Commissioners Zito and Platten both commented that, in their view, the text proposed by staff does little to change the status quo.

The Senior Deputy City Attorney suggested that the Planning Commission could approve the policy intent of the proposed amendment with changes to the text recommended by staff. For example, the Planning Commission could suggest text to clarify the definition of a major issue.

*The Assistant Planning Director noted that applicants currently expect four hearings a year with applications scheduled for the next available General Plan hearing when environmental clearance is completed, and that in response to the recently adopted Council resolution to limit consideration of proposed amendments that involve industrial conversions to a single annual hearing, staff concluded that a General Plan text amendment is needed to revise the existing text in the *San Jose 2020 General Plan*. Staff stated that in formulating the revised text, staff decided also to identify other types of General Plan amendments that have cumulative implications that may raise major City policy issues, and the proposed text recommends these types of amendments for consideration once a year.*

Commissioner Platten commented that the problem was not the number of meetings, but that there was no tracking of the cumulative impacts from the number of changes to the General Plan, and he asked how the City was globally considering the impacts of major decisions related to the General Plan. He noted that the text proposed by staff regarding the early consideration process was not a strong enough statement because the process could be used not only to deny proposals but also to endorse proposals quickly.

Commissioner Jensen stated that the wording “at least two times per year” could still lead to four hearings a year. She said a high-level overview was needed to summarize all of the items coming before the Planning Commission over several evenings in a General Plan hearing cycle.

Commissioner Kalra concurred that the proposed language regarding the early consideration process was ambiguous. He stated that he would prefer information on the status of industrial conversions, and on the degree of modification to the Urban Growth Boundary/Urban Service Area to be presented in a Study Session to the Planning Commission prior to a General Plan hearing.

Commissioner Zito suggested changing the phrase for General Plan hearings from “at least” to “at most” two times per year. The Planning Commission then voted to recommend approval of the text amendment incorporating the text changes as revised by the Planning Commission.

- d. **GP07-T-02.** GENERAL PLAN TEXT AMENDMENT request to amend the *San Jose 2020 General Plan* text to prioritize commercial uses and discourage residential uses for the area within the Stevens Creek/West San Carlos Street Corridor west of Winchester Boulevard. SNI: All. CEQA: Environmental Impact Report Resolution No. 65459.

RECOMMENDED APPROVAL (6-0-0)

No one from the public spoke on this item.

Commissioner Kalra stated that it is vitally important to make this area an established location as Auto Row.

Commissioner Jensen asked staff if there are residents in this area of the Stevens Creek/West San Carlos Street Corridor, and asked if the City of San Jose had contacted the City of Santa Clara about this proposal. Planning staff responded that there are residents in proximity to the Corridor, but that the parcels fronting on to Stevens Creek Boulevard have a land use designation of General Commercial. Office of Economic Development staff noted that the City of San Jose is coordinating with the City of Santa Clara on Auto Row, and that there is an interest, but not a commitment to plan the street together, and stated the City of San Jose is also meeting in about a month with auto dealers.

Commissioner Jensen stated that she had looked at urban design standards for auto rows, such as car lots in San Francisco and New York, and that she recommended that the City of San Jose consider such standards to use land efficiently. Office of Economic Development staff commented that auto dealers have stated that they will eventually intensify vertically, but that they will always need every square foot of car display area along the street frontage of their properties.

7. **CLOSE THE PLANNING COMMISSION HEARING FOR THE MAY 2007 GENERAL PLAN AMENDMENTS.**

CLOSED (6-0-0)

The following items are considered individually.

8. **PUBLIC HEARINGS**

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. **CITY'S PROPOSED 2008-2012 CAPITAL IMPROVEMENT PROGRAM.** Approval of the Planning Commission's report to the City Council transmitting comments and recommending adoption of the Proposed 2008-2012 Capital Improvement Program (CIP).

RECOMMENDED ADOPTION (5-1-0; PLATTEN OPPOSED)

Staff made a brief presentation summarizing discussion by the Planning Commission at the earlier study session. Commissioner Kalra commented 1) no funds for new parks in North San Jose, 2) that City Council should look for creative ways to cut operation/maintenance costs and 3) that in-lieu undergrounding fees don't cover actual costs. Commissioner Kamkar suggested City look at Santa Clara which generates it own power, and explore solar power to cut costs.

- b. **PDC06-085.** Planned Development Rezoning from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow up to 42 single-family attached residences on a 0.66 gross acre site, located on the southwest corner of Archer Street and Kerley Drive (Sam J. Zullo, Owner; Essex Property Trust, Developer). Council District 3. SNI: None. CEQA: Addendum to North San José Environmental Impact Report.

RECOMMENDED APPROVAL (6-0-0)

Staff highlighted project is in Rincon South Specific Plan area which has long contemplated high density residential, and in response to Commissioner Zito, that the 60 DU/AC density of the project is within range of 25 to 65 DU/AC in Plan. In response to Commissioner Kalra's concern that parks be developed quickly, staff explained park locations and strategies in Plan. Commissioner Jensen commented native trees species should be used in project. Staff responded to Commissioner Kamkar's concern regarding footprint, more open space. Applicant explained how tandem spaces would be allocated to respond to Commissioner Zito.

- c. **PDC06-024 and PDC06-025**. Planned Development Rezoning requests from the IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 975 multi-family residential units and 5,000 sq. ft. of retail space on two sites totaling 19.38 gross acres, generally bounded by industrial buildings on the south side of Auzerai Avenue to the north, Lincoln Avenue and Northrup Street to the east, Interstate 280 to the south, and Race Street to the west (Sobrato Development Company; Owner and Developer). Council District 6. SNI: Burbank / Del Monte CEQA: Environmental Impact Report: Race Street General Plan Amendments and Planned Development Rezoning (GP05-06-01, GP05-06-02, PDC06-024, and PDC06-025) SCH# 2005062160.

RECOMMENDED APPROVAL (6-0-0)

Staff made brief report and clarified staff recommendation to allow but not require 10% parking reduction, and other proposed changes to draft Development Standards including base density of 25 DU/AC. Eric Morley, for the applicant, stated general agreement with staff, and highlighted parking rate per Zoning Code in response to neighborhood concerns.

Commissioner Kamkar asked for details on use of tandem parking in garage. Commissioner Kalra expressed agreement with staff on 25 DU/AC base density on 0.7 acre site but noted podium unlikely. Commissioner Jensen commented on sustainability, window ratings and that selection for future plantings should not be invasive species.

Speakers from Sherman Oaks and Burbank/Del Monte NACs expressed support for project stating it supported SNI plan for parks, revitalization of housing, economic development on San Carlos, housing near transit and pedestrian circulation, and would improve parking in area.

Commissioner Kalra concurred with staff to keep parking requirement flexible in zoning since market situation could change. Commissioner Zito asked for clarification on possible parkland dedication "swap" scenarios, and stated care was needed to maintain wide sidewalks and appropriately-sized open areas, and stated affordable units should not be clustered along freeway. Nanci Klein of the Office of Economic Development explained a possible innovative arrangement involving land dedication to City which could meet the Affordability requirements.

Commissioner Zito moved approval with language to allow perpendicular parking and that only residential be built on 0.7 acre site if not parkland. Commissioner Kamkar asked that language be added to preclude second parking level in podium and staff responded to maintain flexibility and two levels allowed but not required.

9. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendaized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
1. Responding to statements made or questions posed by members of the public; or
 2. Requesting staff to report back on a matter at a subsequent meeting; or
 3. Directing staff to place the item on a future agenda.

10. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

11. GOOD AND WELFARE

a. Report from City Council

Report given

b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Campos).

Committee Retreat scheduled, no recent meeting

- Coyote Valley Specific Plan (Platten)

No report

- Parks Funding Subcommittee (Zito)

Next meeting on May 16, 2007

c. Review of synopsis

None reviewed

d. Consider study session dates and/or topics

None discussed

12. ADJOURNMENT

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	Council Chambers
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	T-332
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers